



APPLICATION ACCEPTED: April 4, 2013
DATE OF PUBLIC HEARING: June 12, 2013
TIME: 9:00 a.m.

County of Fairfax, Virginia

June 5, 2013

STAFF REPORT

SPECIAL PERMIT APPLICATION NO. SP 2013-DR-030

DRANESVILLE DISTRICT

APPLICANTS/OWNERS: Steve Stein
Mary Stein

LOCATION: 1935 Fisher Court, Falls Church, 22043

SUBDIVISION: Magarity Heights

TAX MAP: 39-2 ((19)) 2

LOT SIZE: 11,984 square feet

ZONING: R-4

ZONING ORDINANCE PROVISIONS: 2-512, 8-917

SPECIAL PERMIT PROPOSAL: To permit modification to the limitations on the keeping of animals.

A copy of the BZA's Resolution setting forth this decision will be mailed within five (5) days after the decision becomes final.

The approval of this special permit does not interfere with, abrogate or annul any easement, covenants, or other agreements between parties, as they may apply to the property subject to this application.

O:\ehaley\SP 2013-DR-030 Stein SR (animals).docx

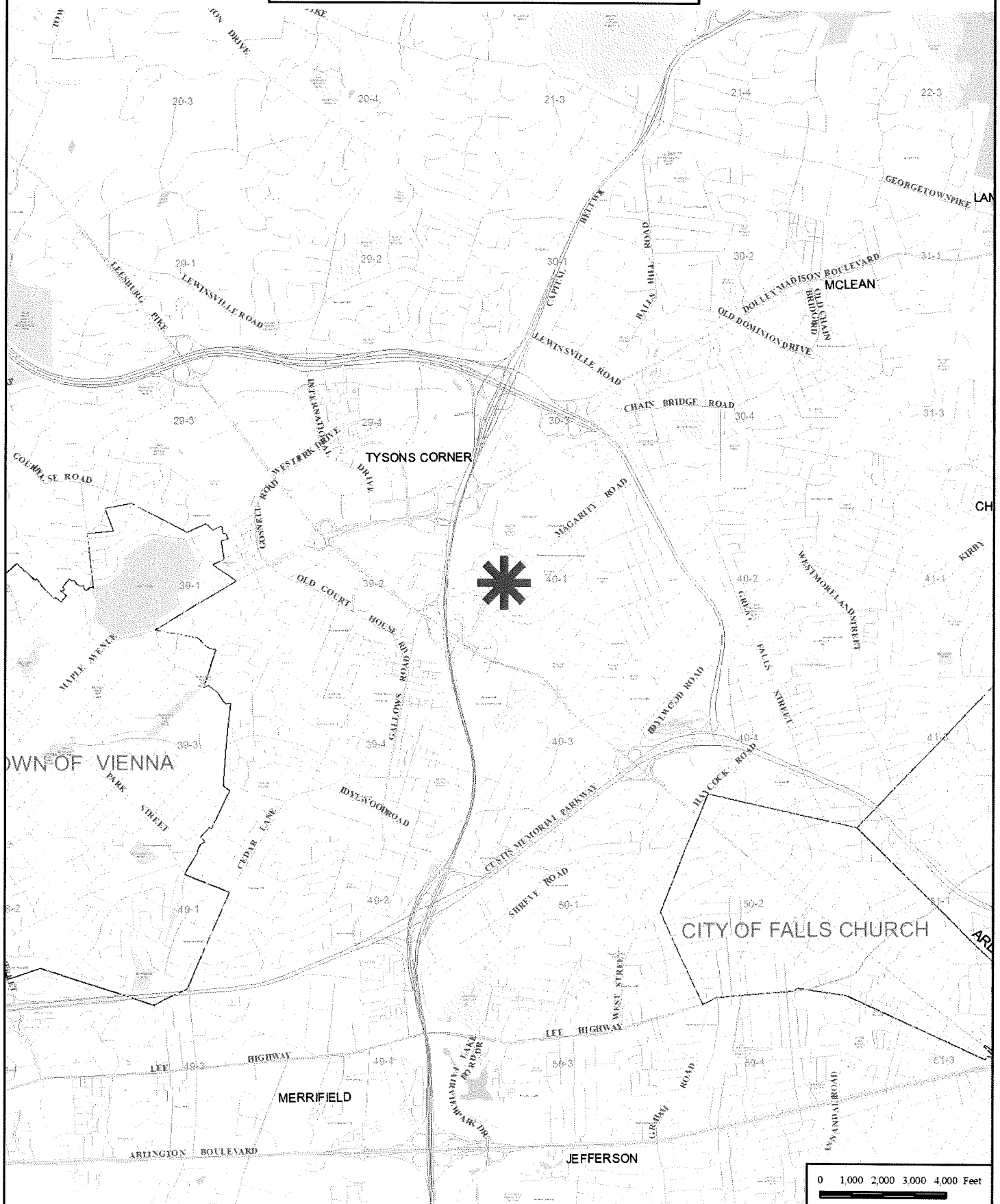
Erin M. Haley

For additional information, call Zoning Evaluation Division, Department of Planning and Zoning at 324-1280, 12055 Government Center Parkway, Suite 801, Fairfax, Virginia 22035. **Board of Zoning Appeals' meetings are held in the Board Room, Ground Level, Government Center Building, 12000 Government Center Parkway, Fairfax, Virginia 22035-5505.**

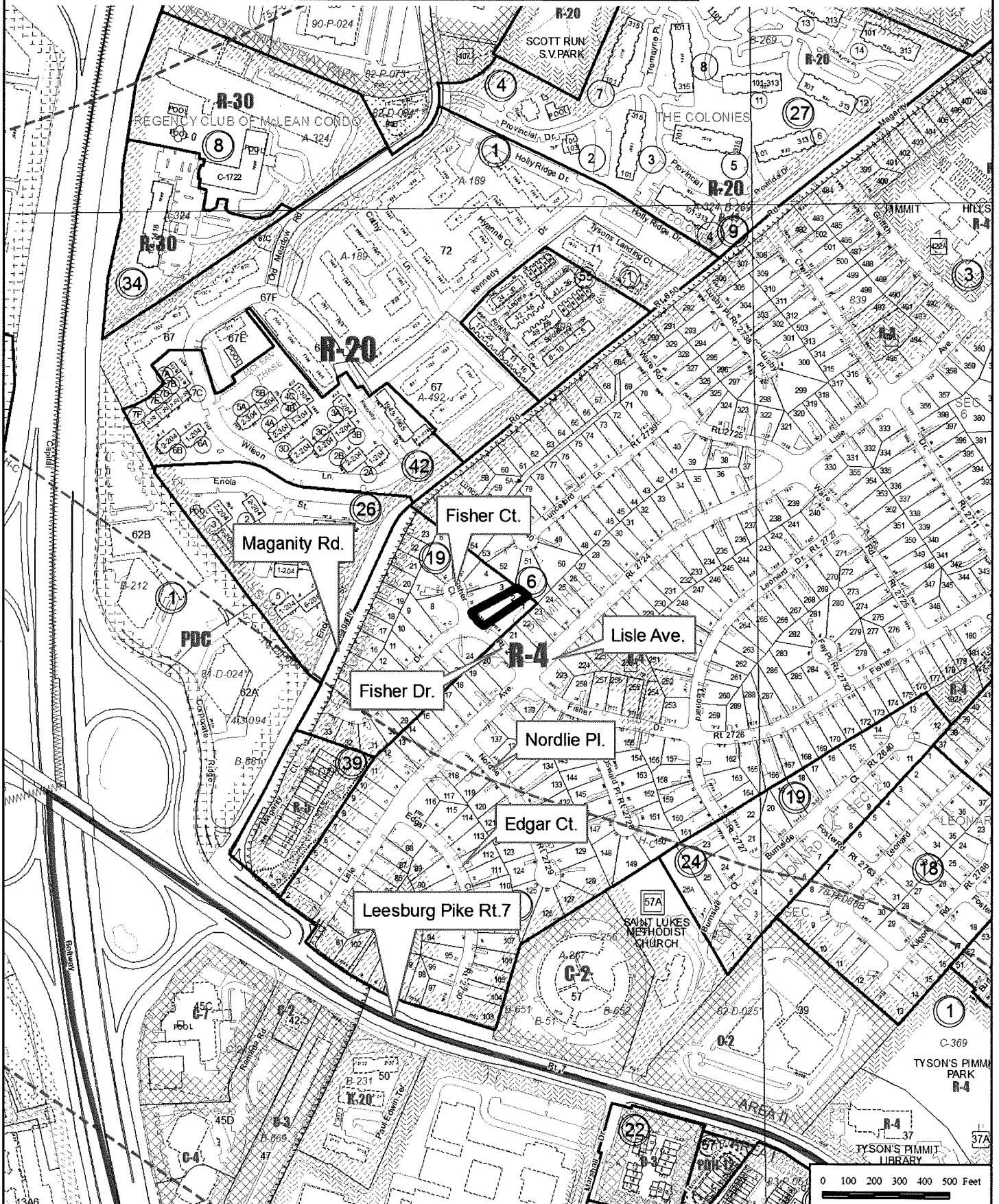


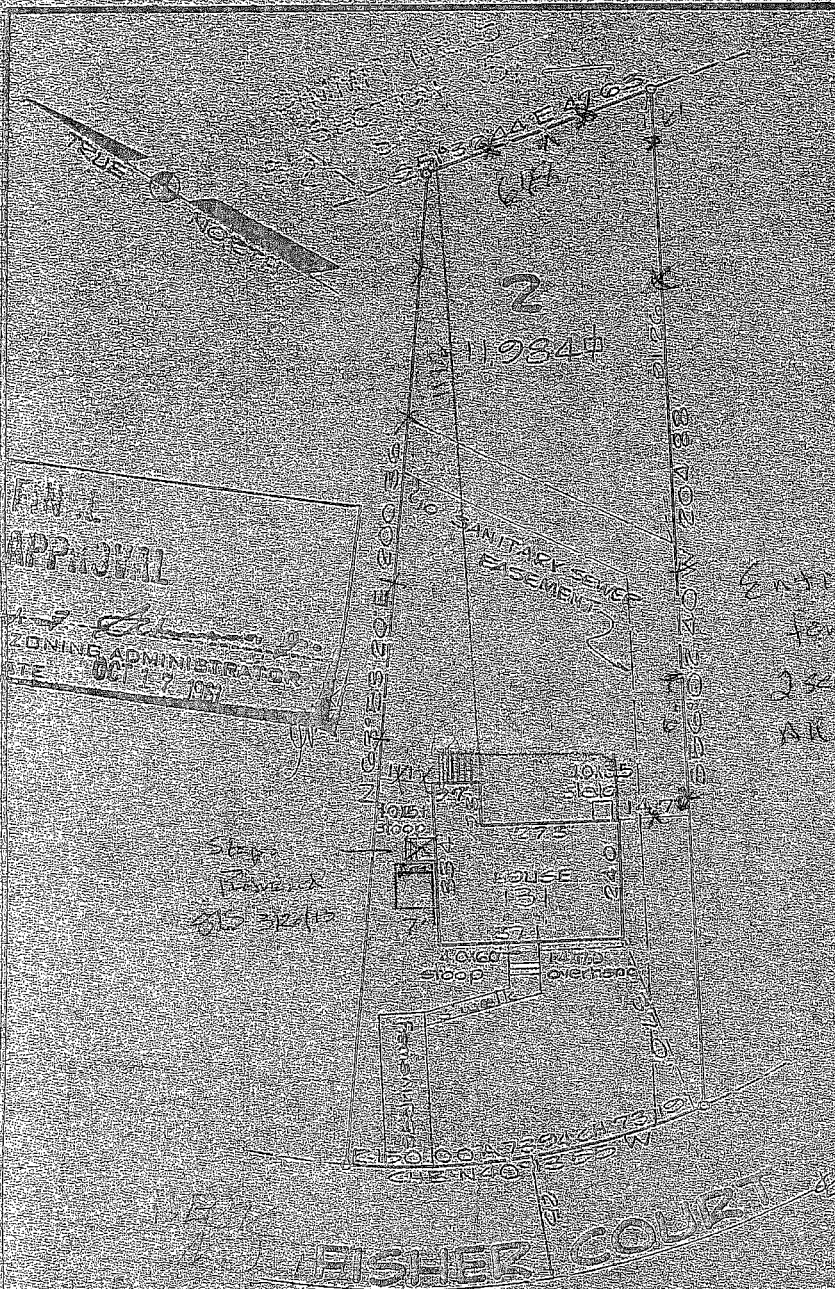
Americans with Disabilities Act (ADA): Reasonable accommodation is available upon 48 hours advance notice. For additional information on ADA call (703) 324-1334 or TTY 711 (Virginia Relay Center).

Special Permit
SP 2013-DR-030
STEVE STEIN AND MARY STEIN



Special Permit
SP 2013-DR-030
STEVE STEIN AND MARY STEIN





CERTIFIED CORRECT

PROPERTY SURVEY

Lester V. Johnson
LESTER V. JOHNSON
CERTIFIED CIVIL ENGINEER

LOT 2

RECERTIFIED CORRECT DEC 8 1960

Lester V. Johnson
LESTER V. JOHNSON
CERTIFIED CIVIL ENGINEER

MAGARITY HEIGHTS

GRANESVILLE MAGISTERIAL DISTRICT

FAIRFAX COUNTY, VIRGINIA

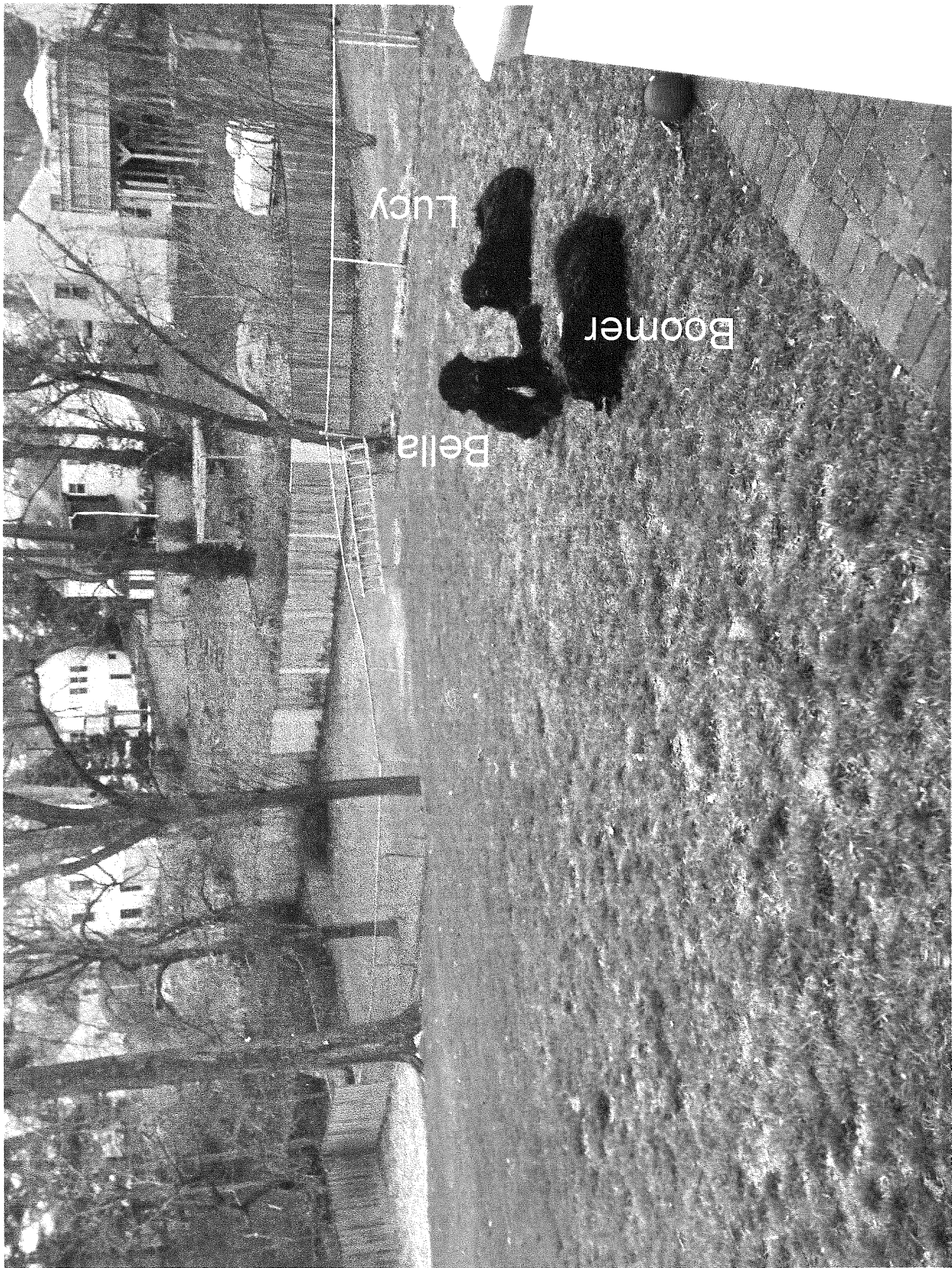
SCALE 1"=30' AUG 23 1960

Lester V. Johnson
3/20/2013

LESTER V. JOHNSON ASSOCIATES
ENGINEERS & PLANNERS
ARLINGTON, VIRGINIA

1955/2	SURVEY BY	JCS	8-19-60
	CORRECTED BY	JTE	8-22-60
	EXAMINED BY	NG	8-25-60
	APPROVED BY	JCS	8-26-60







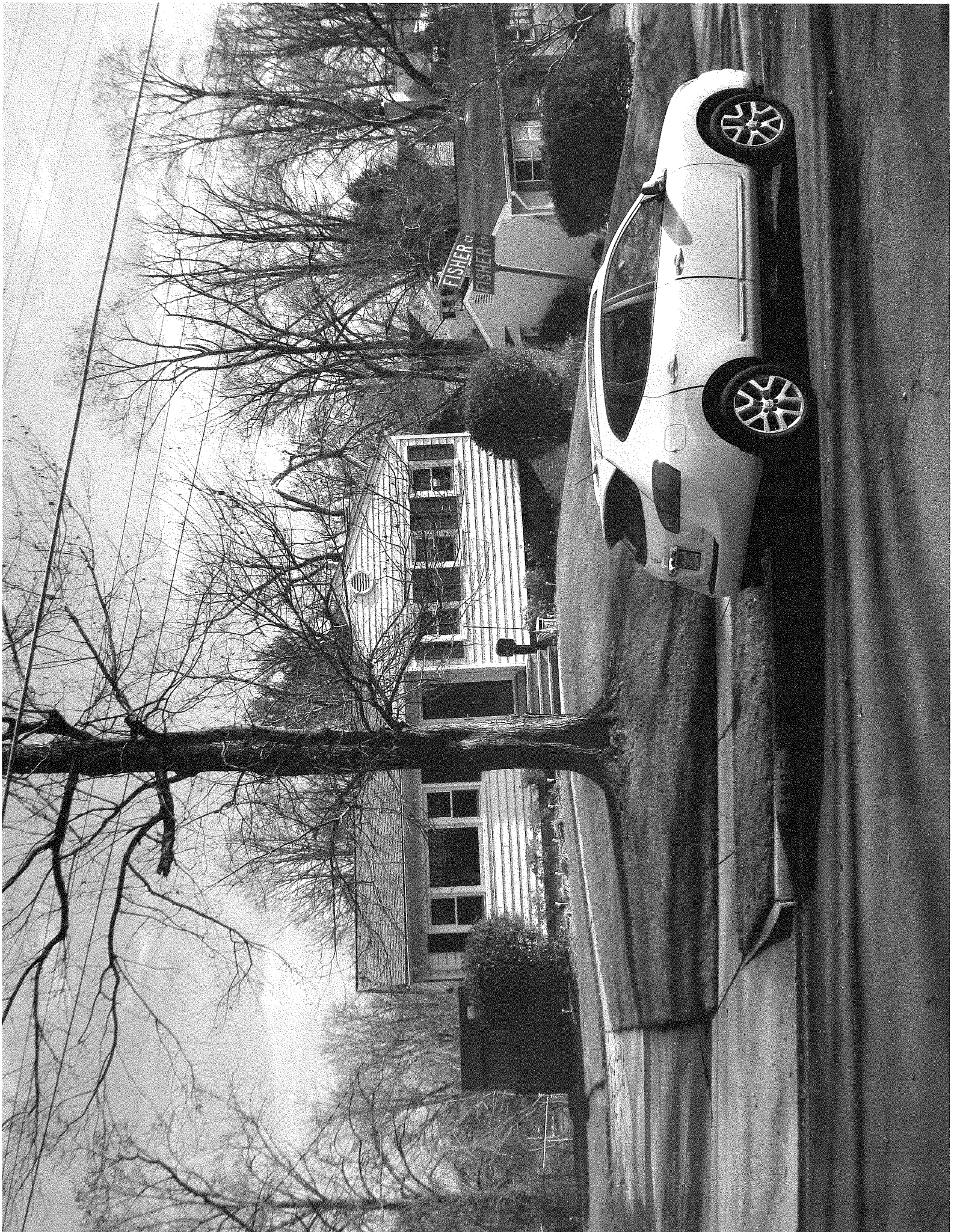
1854 W. 10th St.

1854

1854



South

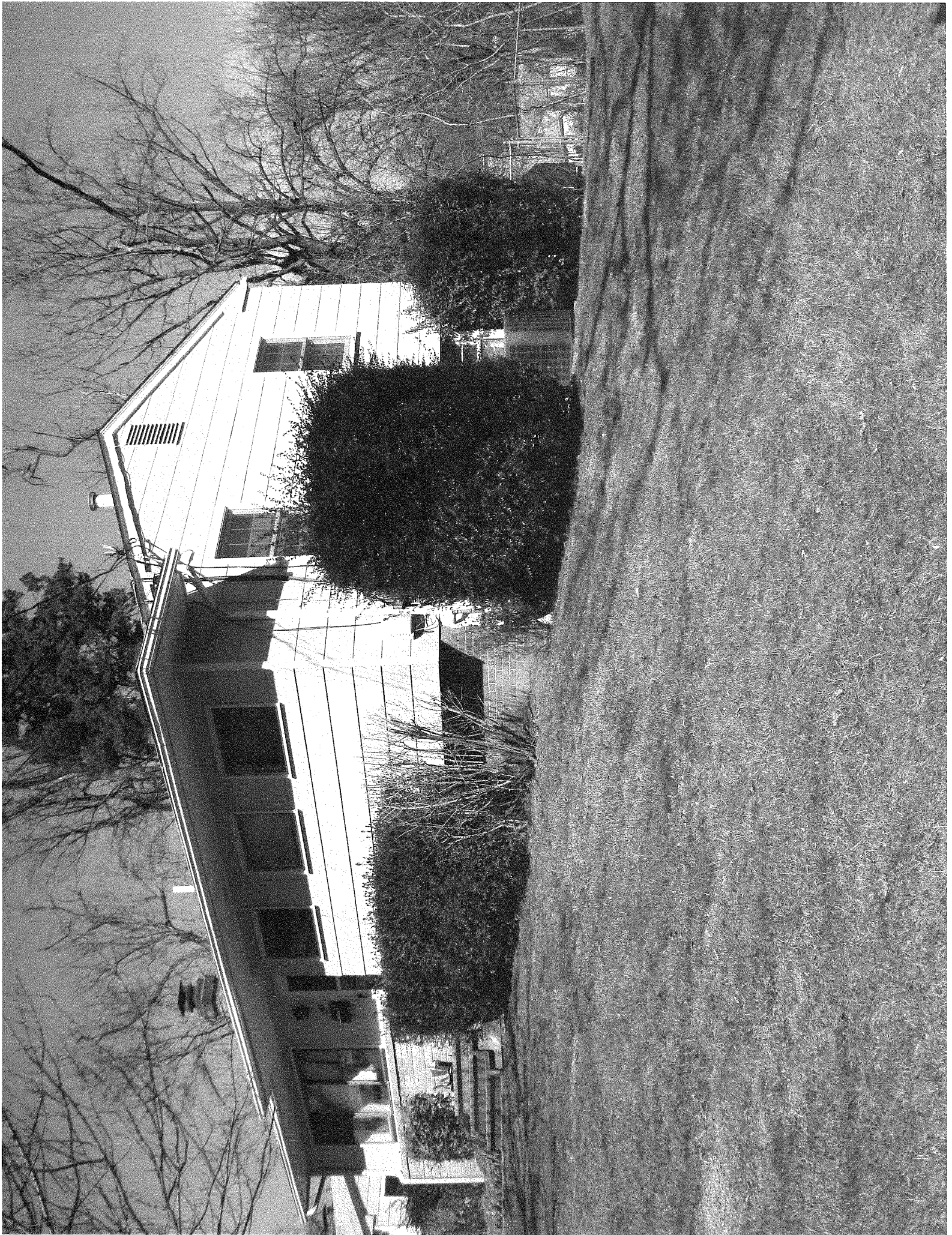








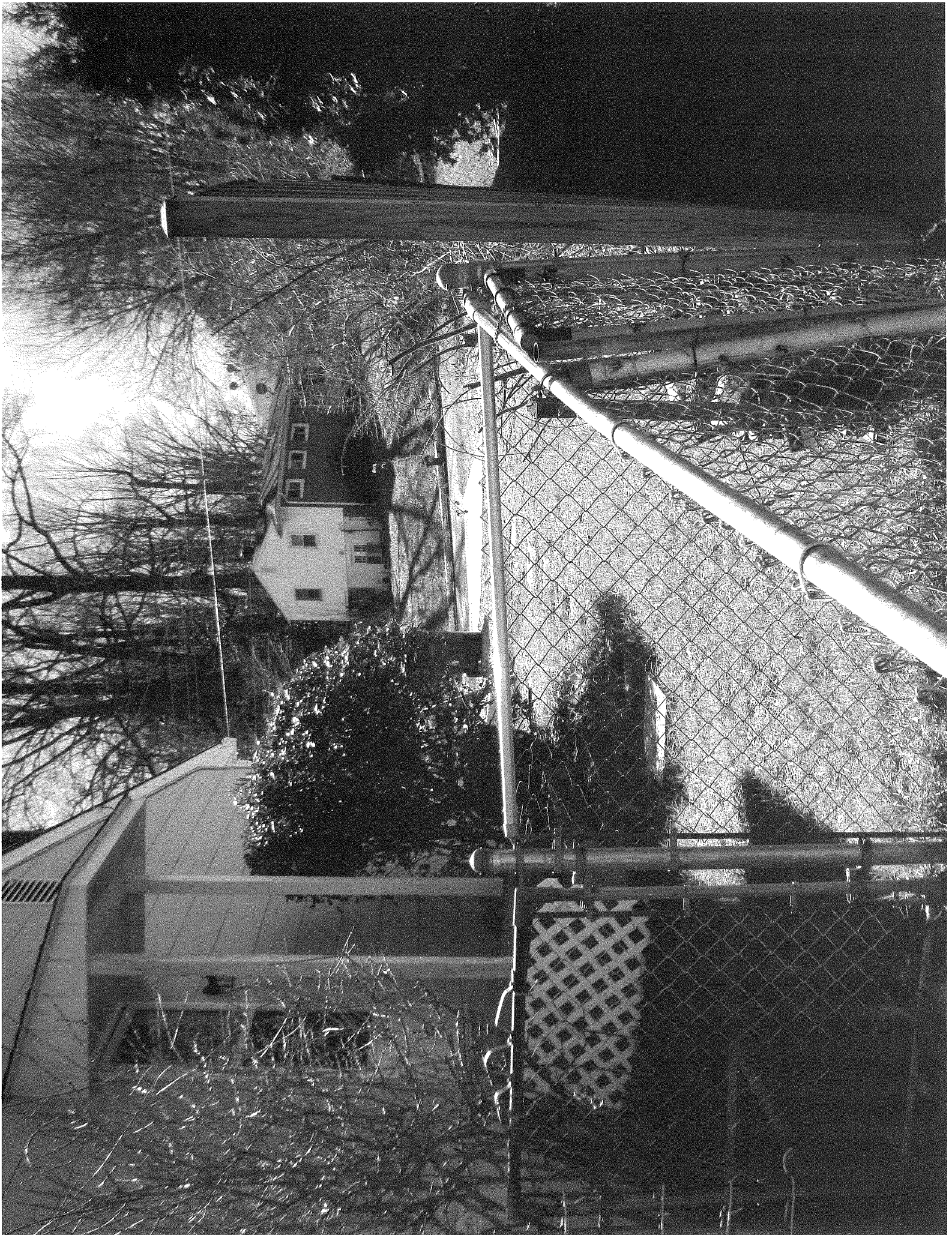


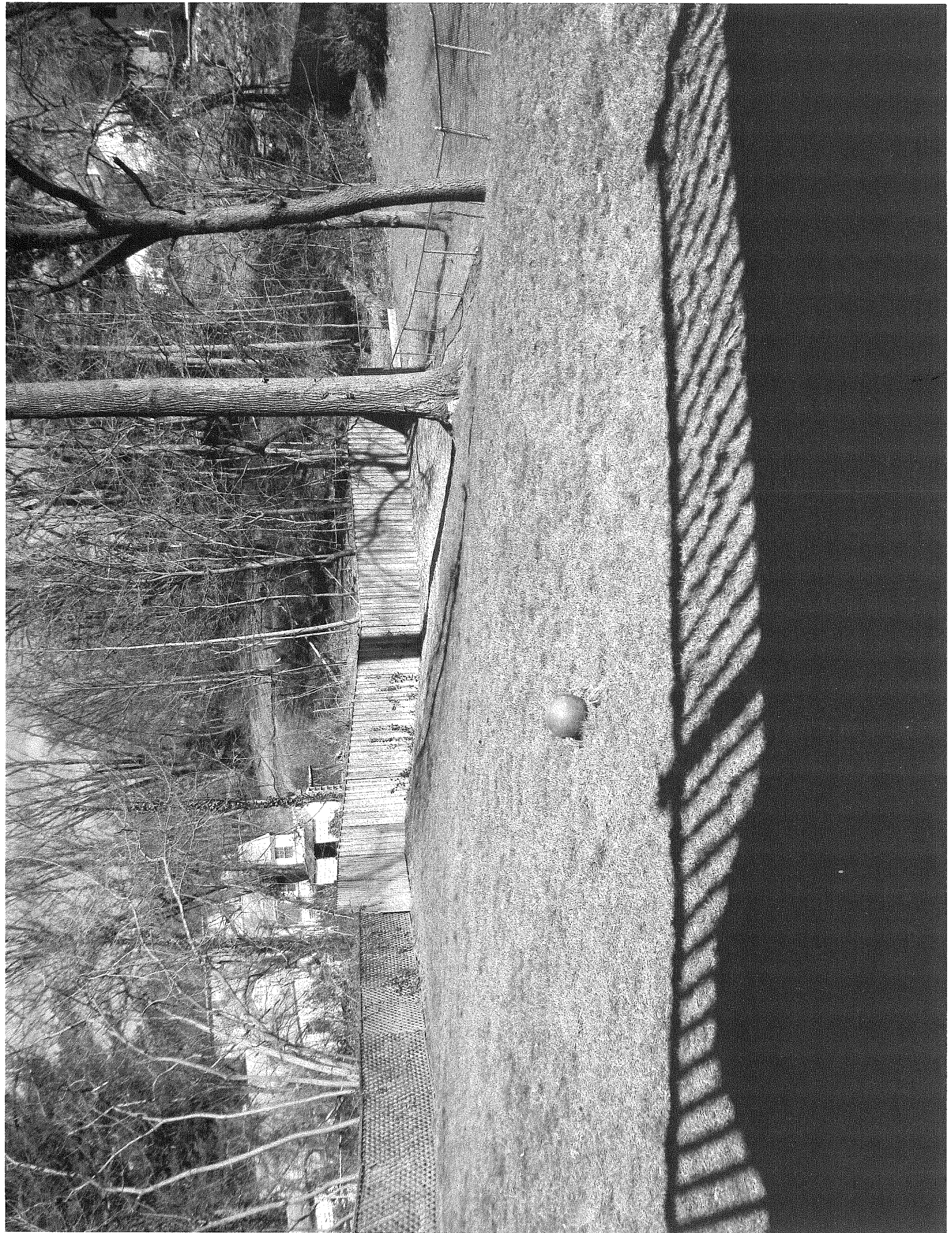
















DESCRIPTION OF THE APPLICATION

The request is for approval of a special permit for modifications to the limitations on the keeping of animals. The applicants are requesting to keep three dogs on a lot that is less than 12,500 square feet in size. The property is 11,984 square feet in size. Sect. 2-512 of the Zoning Ordinance permits the keeping of one to two dogs on any lot, but requires a lot with a minimum of 12,500 square feet to keep three to four dogs.

CHARACTER OF THE AREA

	Zoning	Use
North	R-4	Single Family Detached Dwellings
South	R-4	Single Family Detached Dwellings
East	R-4	Single Family Detached Dwellings
West	R-4	Single Family Detached Dwellings

EXISTING SITE DESCRIPTION

The 11,984 square foot lot is developed with a one story single family detached dwelling, constructed in 1960. An eight foot high deck with steps is attached to the rear of the single family dwelling. A small storage shed is located in the side yard to the north. A concrete stoop is located on the western side of the dwelling, where the front door is located. A concrete walkway connects the stoop and the driveway. A brick walkway extends from the driveway, along the northern side of the house, to a patio at the base of the deck stairs. A six foot high wooden fence encloses the rear yard while the side yards are enclosed by four foot high chain link fencing. A portion of a 10.0 foot wide sanitary sewer easement exists across the width of the property and along the south side yard property line. The property has a manicured lawn with mature trees and shrubs.

BACKGROUND

According to Fairfax County Tax Records, the applicants purchased the property in 1994. The applicants state that they chose the property to have a big enough yard for dogs and that when they moved onto the property they already owned three dogs, as they have since 1986. On December 6, 2012, a Notice of Violation was issued to the owners of this property for a violation in the keeping of dogs (Appendix 4).

The applicants indicate that they have had two of the current dogs for 10 years and the third for four years. All three of the dogs have special needs since the two older ones

are nearing the end of their normal life expectancy and the third dog has health issues relating to several joint surgeries. The dogs have access to the house and the fenced rear yard, but are never allowed to roam freely. They sleep inside the house. The applicants also indicate that after one of the dogs passes away that they will no longer desire to have three dogs and instead will maintain two dogs as is allowed by right.

A copy of the submitted special permit plat titled "Property Survey, Lot 2, Magarity Heights" prepared by Lester V. Johnson Associates, dated August 23, 1960, as revised and signed by Steve Stein, dated March 20, 2013, is included at the front of the staff report.

Following the adoption of the current Ordinance, the BZA has not heard any other applications in the vicinity of the application parcel.

ZONING ORDINANCE REQUIREMENTS

- General Special Permit Standards (Sect. 8-006)
- Group 9 Standards (Sect. 8-903)
- Limitations on the Keeping of Animals (Sect. 2-512)

This special permit is subject to Sects. 8-006, 8-903, and 2-512 of the Zoning Ordinance as referenced above, a copy of which is included in Appendix 5. Subject to development conditions, the special permit must meet these standards.

CONCLUSION

If it is the intent of the BZA to approve this application, the BZA should condition its approval by requiring conformance with the conditions set forth in Appendix 1 of this report, Proposed Development Conditions.

The approval of this application does not interfere with, abrogate or annul any easements, covenants, or other agreements between parties, as they may apply to the property subject to the application.

APPENDICES

1. Proposed Development Conditions
2. Applicant's Affidavit
3. Applicant's Statement of Justification
4. Notice of Violation dated December 6, 2012
5. Zoning Ordinance Provisions

PROPOSED DEVELOPMENT CONDITIONS

SP 2013-DR-030

June 5, 2013

1. This approval is granted to the applicants only, Steve Stein and Mary Stein, and is not transferable without further action of this Board, and is only for the location indicated on the application, 1935 Fisher Court (11,984 square feet) and is not transferable to other land.
2. The applicant shall make this special permit property available for inspection by County Officials during reasonable hours of the day.
3. This approval shall be for the applicants' existing three (3) dogs. If any of these specific animals die or are given away, the dogs shall not be replaced, except that two (2) dogs may be kept on the property in accordance with the Zoning Ordinance.
4. The yard used by the dogs shall be cleaned of animal debris daily and disposed of in a method approved by the Health Department.
5. At no time shall the dogs be left outdoors unattended for continuous periods of time longer than 30 minutes.

This approval, contingent upon the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations or adopted standards.

Application No.(s): SP 2013-DR-030
 (county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 2/1/2013
 (enter date affidavit is notarized)

I, Steve AND Mary STEIN., do hereby state that I am an
 (enter name of applicant or authorized agent)

(check one)

☒
☐

applicant

applicant's authorized agent listed in Par. 1(a) below

119701

and that, to the best of my knowledge and belief, the following is true:

- 1(a). The following constitutes a listing of the names and addresses of all **APPLICANTS, TITLE OWNERS, CONTRACT PURCHASERS**, and **LESSEES** of the land described in the application,* and, if any of the foregoing is a **TRUSTEE**,** each **BENEFICIARY** of such trust, and all **ATTORNEYS** and **REAL ESTATE BROKERS**, and all **AGENTS** who have acted on behalf of any of the foregoing with respect to the application:

(**NOTE**: All relationships to the application listed above in **BOLD** print must be disclosed. Multiple relationships may be listed together, e.g., **Attorney/Agent, Contract Purchaser/Lessee, Applicant/Title Owner**, etc. For a multiparcel application, list the Tax Map Number(s) of the parcel(s) for each owner(s) in the Relationship column.)

NAME (enter first name, middle initial, and last name)	ADDRESS (enter number, street, city, state, and zip code)	RELATIONSHIP(S) (enter applicable relationships listed in BOLD above)
Steve A. STEIN	1935 Fisher Court	Husband and
MARY L. STEIN	FALLS CHURCH, VA	WIFE Property
	2243	OWNERS

(check if applicable)

☐ There are more relationships to be listed and Par. 1(a) is continued on a "Special Permit/Variance Attachment to Par. 1(a)" form.

* In the case of a condominium, the title owner, contract purchaser, or lessee of 10% or more of the units in the condominium.

** List as follows: Name of trustee, Trustee for (name of trust, if applicable), for the benefit of: (state name of each beneficiary).

Application No.(s): SP 2013-DR-030
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SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 2/1/13
 (enter date affidavit is notarized)

119701

1(b). The following constitutes a listing*** of the **SHAREHOLDERS** of all corporations disclosed in this affidavit who own 10% or more of any class of stock issued by said corporation, and where such corporation has 10 or less shareholders, a listing of all of the shareholders:

(NOTE: Include SOLE PROPRIETORSHIPS, LIMITED LIABILITY COMPANIES, and REAL ESTATE INVESTMENT TRUSTS herein.)

CORPORATION INFORMATION

NAME & ADDRESS OF CORPORATION: (enter complete name, number, street, city, state, and zip code)

J O N E

DESCRIPTION OF CORPORATION: (check one statement)

- ☐ There are 10 or less shareholders, and all of the shareholders are listed below.
- ☐ There are more than 10 shareholders, and all of the shareholders owning 10% or more of any class of stock issued by said corporation are listed below.
- ☐ There are more than 10 shareholders, but no shareholder owns 10% or more of any class of stock issued by said corporation, and no shareholders are listed below.

NAMES OF SHAREHOLDERS: (enter first name, middle initial, and last name)

(check if applicable) ☐ There is more corporation information and Par. 1(b) is continued on a "Special Permit/Variance Attachment 1(b)" form.

*** All listings which include partnerships, corporations, or trusts, to include the names of beneficiaries, must be broken down successively until (a) only individual persons are listed or (b) the listing for a corporation having more than 10 shareholders has no shareholder owning 10% or more of any class of stock. *In the case of an APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land that is a partnership, corporation, or trust, such successive breakdown must include a listing and further breakdown of all of its partners, of its shareholders as required above, and of beneficiaries of any trusts. Such successive breakdown must also include breakdowns of any partnership, corporation, or trust owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER or LESSEE* of the land. Limited liability companies and real estate investment trusts and their equivalents are treated as corporations, with members being deemed the equivalent of shareholders; managing members shall also be listed.* Use footnote numbers to designate partnerships or corporations, which have further listings on an attachment page, and reference the same footnote numbers on the attachment page.

Application No.(s): SP 2013-DR-030
 (county-assigned application number(s), to be entered by County Staff)

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SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 2/1/13
 (enter date affidavit is notarized)

119701

1(c). The following constitutes a listing*** of all of the **PARTNERS**, both **GENERAL** and **LIMITED**, in any partnership disclosed in this affidavit:

PARTNERSHIP INFORMATION

PARTNERSHIP NAME & ADDRESS: (enter complete name, number, street, city, state, and zip code)

None

(check if applicable) ☐ The above-listed partnership has no limited partners.

NAMES AND TITLE OF THE PARTNERS (enter first name, middle initial, last name, and title, e.g. **General Partner**, **Limited Partner**, or **General and Limited Partner**)

(check if applicable) ☐ There is more partnership information and Par. 1(c) is continued on a "Special Permit/Variance Attachment to Par. 1(c)" form.

*** All listings which include partnerships, corporations, or trusts, to include the names of beneficiaries, must be broken down successively until: (a) only individual persons are listed or (b) the listing for a corporation having more than 10 shareholders has no shareholder owning 10% or more of any class of stock. *In the case of an APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land that is a partnership, corporation, or trust, such successive breakdown must include a listing and further breakdown of all of its partners, of its shareholders as required above, and of beneficiaries of any trusts. Such successive breakdown must also include breakdowns of any partnership, corporation, or trust owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land. Limited liability companies and real estate investment trusts and their equivalents are treated as corporations, with members being deemed the equivalent of shareholders; managing members shall also be listed.* Use footnote numbers to designate partnerships or corporations, which have further listings on an attachment page, and reference the same footnote numbers on the attachment page.

Application No.(s): SP 2013-DR-030
 (county-assigned application number(s), to be entered by County Staff)

Page Four

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 2/1/13
 (enter date affidavit is notarized)

119701

1(d). One of the following boxes must be checked:

☐ In addition to the names listed in Paragraphs 1(a), 1(b), and 1(c) above, the following is a listing of any and all other individuals who own in the aggregate (directly and as a shareholder, partner, and beneficiary of a trust) 10% or more of the **APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE*** of the land:

☒ Other than the names listed in Paragraphs 1(a), 1(b), and 1(c) above, no individual owns in the aggregate (directly and as a shareholder, partner, and beneficiary of a trust) 10% or more of the **APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE*** of the land.

2. That no member of the Fairfax County Board of Zoning Appeals, Planning Commission, or any member of his or her immediate household owns or has any financial interest in the subject land either individually, by ownership of stock in a corporation owning such land, or through an interest in a partnership owning such land.

EXCEPT AS FOLLOWS: (NOTE: If answer is none, enter "NONE" on the line below.)

NONE

(check if applicable) ☐ There are more interests to be listed and Par. 2 is continued on a "Special Permit/Variance Attachment to Par. 2" form.

Application No.(s): SP 2013-DR-030
 (county-assigned application number(s), to be entered by County Staff)

Page Five

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 2/1/13
 (enter date affidavit is notarized)

119701

3. That within the twelve-month period prior to the public hearing of this application, no member of the Fairfax County Board of Zoning Appeals, Planning Commission, or any member of his or her immediate household, either directly or by way of partnership in which any of them is a partner, employee, agent, or attorney, or through a partner of any of them, or through a corporation in which any of them is an officer, director, employee, agent, or attorney or holds 10% or more of the outstanding bonds or shares of stock of a particular class, has, or has had any business or financial relationship, other than any ordinary depositor or customer relationship with or by a retail establishment, public utility, or bank, including any gift or donation having a value of more than \$100, singularly or in the aggregate, with any of those listed in Par. 1 above.

EXCEPT AS FOLLOWS: (NOTE: If answer is none, enter "NONE" on line below.)

NONE

(NOTE: Business or financial relationships of the type described in this paragraph that arise after the filing of this application and before each public hearing must be disclosed prior to the public hearings. See Par. 4 below.)

(check if applicable) ☐ There are more disclosures to be listed and Par. 3 is continued on a "Special Permit/Variance Attachment to Par. 3" form.

4. That the information contained in this affidavit is complete, that all partnerships, corporations, and trusts owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land have been listed and broken down, and that prior to each and every public hearing on this matter, I will reexamine this affidavit and provide any changed or supplemental information, including business or financial relationships of the type described in Paragraph 3 above, that arise on or after the date of this application.

WITNESS the following signature:

(check one)

☒ Applicant

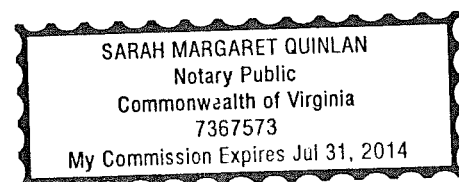
☐ Applicant's Authorized Agent

STEVE A. STEIN
 (type or print first name, middle initial, last name, and title of signee)

Subscribed and sworn to before me this 1st day of February 2013, in the State/Comm. of Virginia, County/City of Fairfax.

Sarah Margaret Quinlan
 Notary Public

My commission expires: 7/31/2014



Special Permit Application per Section 8-917**for modification of section 2-512 (A) restrictions on number of pet dogs****Applicant: Steve Stein and Mary Stein, Property Owners****Property: 1935 Fisher Court, Falls Church, VA 22043****Tax Map: # 39-2 (19) 2****Zoning District: R-4**

RECEIVED
Department of Planning & Zoning
FEB 01 2013
Zoning Evaluation Division

The applicants respectfully request the County BZA grant a Group 9 Special Permit for modification of the limitations on the keeping of dogs in accordance with Section 8-917 of the Ordinance to permit three (3) pet dogs to be keep on property with a lot size of 11,984 sq. feet. Section 2-512(A) of the Ordinance permits 3-4 dogs on a of lot of 12,500 sq. feet or greater and 2 dogs on smaller lots. The applicants seek to keep 3 dogs until one of the current dogs dies. The applicants do not propose to keep more than two dogs on the property thereafter. The Applicants do not propose than any permit granted would be transferrable to any new owner or resident of the subject property. The applicant received a Notice of Violation dated 12/6/2012. The dogs have always been properly licensed and the applicants have never had a complaint of violation of any ordinance before.

The Applicants note they have lived at this address since 1994. We bought this property specifically for the yard size. We have had three dogs since 1986 and were completely unaware of the Code. We were never informed by our Real Estate Agent at the time about any such code despite our express request for a property with a big yard for three dogs.

The dogs are:

- 10SAS 3/20/13
One male Newfoundland - ~~9~~ yrs old - Boomer - AN Black - 2 years of 2
- 10SAS 3/20/13
One female Newfoundland - ~~9~~ yrs old - Lucy - AN black - smaller of 2
- One female Newfoundland - 4+ yrs old - Bella - has white blaze

Two of the dogs are over 9 years old, are litter mate siblings and are of a breed with a normal life expectancy of 9 to 10 years. We cannot place either of the dogs somewhere else due to their ages and their deteriorating health. One of the dogs is deteriorating particularly faster than the other due to serious hip dysplasia and other health issues. In addition, we have a 4 year old female, also with health issues relating to several joint surgeries. There are no suitable homes known that are able emotionally or financially to care for a breed such as ours with health issues. All our dogs have been cared for by the same Veterinarian for 20+ years. These dogs are and have been our lives for over 20 years. We are devoted to these dogs.

We clearly made no attempts to hide any dog as we were unaware we were in violation. There have never been any complaints by any of our neighbors. Our neighbors support our appeal. Please see attached letters from our neighbors and Veterinarian

The dogs have access to the interior of the home and the rear yard. The pictures included showing the residence demonstrate that the rear yard is adequately fenced with a chain link fence on the perimeter and a wooden privacy fence to the very rear. The pictures also show the abutting yards are of similar size and fenced so that there is ample open space between our rear yard and nearby houses. The far side of the rear yard is well-treed. The dogs are not kenneled outside but sleep in the house which is of a size adequate for their care. They are not allowed to roam free but are always controlled.

The dogs are placid and not noisy and are very friendly, well-behaved pets. They do not in anyway disturb the applicants' neighbors.

The permission sought will be harmonious and compatible with the adjacent area.

No hazardous or toxic materials statement

Applicants affirm that there are no hazardous or toxic waste substances on our property as set forth in Title 40, CFR Parts 116.4, 302.4, and 355 or as set forth in Commonwealth of Virginia, Department of Waste Management Regulations VR 672.10; nor Petroleum Products as defined in Title 40, CFR, part 280. No hazardous or toxic waste substances will ben generated, utilized, stored, treated, and/or deposited on the subject property. We also affirm that there are no existing or proposed hazardous or toxic waste substances, storage tanks or containers with such substances maintained on the property.

Conformity Statement

Applicants affirm that the propose application will conform to the provisions of all applicable ordinances, regulations, and adopted standards, except for the zoning modification sought for the keeping of three dogs.

Attached:

Zoning Map

Plat of property with house location and boundaries and dimensions

Statement of veterrarian

Statements of Immediate Neighbors

Pictures of Front, Side, Rear of Property

Pictures of Three existing dogs

JOHN N. BRATSCH
1931 Fisher Ct.
Falls Church, Va 22043

December 12, 2012

To whom it may concern:

I have been a neighbor of Mr. & Mrs. Stien for the past 20 years or more. With regard to the dogs that they have I must say that they are not bothersome. The only time their dogs bark excessively are when there is a stray dog in the area. When this occurs they take the dogs into the house.

Sincerely

John N. Bratsch
John N. Bratsch

RECEIVED
Department of Planning & Zoning
FEB 01 2013
Zoning Evaluation Division

December 23, 2012

To Whom It May Concern:

I presently reside at 7710 Fisher Drive, Falls Church, VA. Steven Stein is my neighbor to the right, at 1935 Fisher Court. I am writing to testify to the fact that his three dogs are very well behaved, and have never been disruptive in any way.

If I can answer any additional questions, feel free to contact me via email or phone.

Sincerely,

Steve Fairchild
srfairchild@gmail.com
248.250.0816

RECEIVED
Department of Planning & Zoning
FEB 01 2013
Zoning Evaluation Division

Steve Stein

From: Patrick Denney [patrickdenney10@yahoo.com]
Sent: Wednesday, December 19, 2012 4:57 PM
To: sas10@verizon.net
Subject: Letter of reference

To whom it may concern;

I've been the primary veterinarian for Steve and Mary Stein for over 20 years. The Steins have been excellent clients and pet owners. They always do what is necessary to maintain happy, healthy pets. They currently have three Newfoundlands. Two of these pets are nine plus years of age. For a giant breed, this is approaching their normal life expectancy. Boomer, a nine year old altered male, suffers from hip dysplasia, and is currently receiving treatment. If I can be of any further assistance, please call me at 703-591-3304. In summary, Steve and Mary are excellent pet owners and are to be commended for the excellent care they give their pets.

Sincerely,

Dr. Patrick Denney

Sent from my iPhone

RECEIVED
Department of Planning & Zoning
FEB 01 2013
Zoning Evaluation Division

December 17, 2012

Re: Steve & Mary Stein's three dogs
1935 Fisher Court
Falls Church, VA 22043

RECEIVED
Department of Planning & Zoning
FEB 01 2013
Zoning Evaluation Division

To Whom It May Concern:

I own the property that abuts the south side of the Steins property, immediately to the right as you face the Steins home. I have never objected to or been unhappy about having the Steins three family dogs next door. The Steins dogs are the most docile and friendly dogs in the neighborhood. They have never caused a problem.

The dogs are very well behaved and never bark excessively. The Steins almost always remain outside with their dogs when the dogs are out. I have never seen any of the dogs left outside alone for more than fifteen or twenty minutes and the Steins pick up after their dogs on a daily basis. In fact they have the nicest and best maintained yard on the street and in the immediate neighborhood. The Stein's are some of the most considerate and thoughtful neighbors a homeowner could ask for.

The Steins are very protective of their dogs as parents would be of their children. The thought of separating one of their dogs from its family is inconceivable to me. I support the Steins keeping all three dogs on their property and I am willing to help do whatever necessary to assure the Stein's family stays intact and remain my neighbor.

Sincerely,



Margaretha McGrail
703-442-5000

7710 Fisher Drive
Falls Church, VA 22043



County of Fairfax, Virginia

To protect and enrich the quality of life for the people, neighborhoods and diverse communities of Fairfax County.

NOTICE OF VIOLATION Fairfax County Zoning Ordinance

DATE OF ISSUANCE: December 06, 2012

SHERIFF'S LETTER

CASE #: 201208022 **SR#:** 89771

SERVE: Steven A. Stein
Mary L. Stein
1935 Fisher Court
Falls Church, VA 22043

LOCATION OF VIOLATION 1935 Fisher Court
Falls Church, VA 22043-1227
Tax Map #: 39-2 ((19)) 2
Zoning District: R-4

Dear Property Owners:

An inspection of the above referenced property on December 05, 2012 revealed the following violations of the Fairfax County Zoning Ordinance.

§ 2-512 (2A & B) Keeping of Dogs

An inspection of the above referenced property revealed that you are keeping three (3) Newfoundland dogs on the referenced-property. The above-referenced property contains 11,984 square feet of area. Commonly accepted pets are defined in Part 3 of Article 20 of the Fairfax County Zoning Ordinance as:

Domesticated rabbits; hamsters; ferrets; gerbils; guinea pigs; pet mice and pet rats; turtles; fish; dogs; cats; domestic chickens, ducks and geese under two (2) months old; birds such as canaries, parakeets, doves and parrots; worm/ant farms; non-poisonous spiders; chameleons and similar lizards; and non-poisonous snakes. The BZA may allow other pets to be kept as commonly accepted pets in accordance with the provisions of Part 9 of Article 8.

Department of Code Compliance
12055 Government Center Parkway, Suite 1016
Fairfax, Virginia 22035-5508
Phone 703-324-1300 FAX 703-324-9346
www.fairfaxcounty.gov/code

Additionally, Par. 2A & B of Sect. 2-512 of the Fairfax County Zoning Ordinance provides:

Limitations on the Keeping of Animals

2. The keeping of dogs, except a kennel as permitted by the provisions of Part 6 of Article 8, shall be allowed as an accessory use on any lot in accordance with the following:

- A. The number of dogs permitted shall be in accordance with the following schedule, except that, in determining the number of dogs allowed, only those dogs six (6) months or older in age shall be counted.

<i>Number of Dogs</i>	<i>Minimum Lot Size</i>
1 to 2	No requirement
3 to 4	12,500 square feet
5 to 6	20,000 square feet
7 or more	25,000 square feet plus 5,000 square feet for each additional dog above 7

- B. Notwithstanding the above, dogs in numbers greater than those set forth above may be kept on a lot when it can be demonstrated that:

- (1) Such dogs were kept on the lot prior to October 11, 1977 and have continued to be kept on such lot; or
- (2) Three (3) dogs were kept on a lot of less than 12,500 square feet in size, or five (5) dogs were kept on a lot of 12,500 to 19,999 square feet in size, prior to February 25, 1985.

The provisions of this Paragraph B shall apply only to existing dogs when evidence is submitted which specifically identifies each animal and documents that such animal was present on the lot in accordance with the applicable time frames set forth above.

Nothing in this Ordinance shall be construed to determine the type of license required for dogs under the provisions of Chapter 41.1 of The Code.

Therefore, the keeping of three (3) dogs on this lot, which contains 11,984 of square feet of land, is a violation of Par. 2A & B of Sect. 2-512 of the Zoning Ordinance as outlined above.

You are hereby directed to clear this violation within thirty (30) days after the date of this Notice. Compliance must be accomplished by:

Steven A. Stein
Mary L. Stein
December 06, 2012
Page 3

Reducing the number of dogs located at this dwelling to no more than two (2).

A follow-up inspection will be made at the expiration of the time period outlined in this Notice. Failure to comply with the Notice will result in the initiation of appropriate legal action to gain compliance with the Zoning Ordinance which can result in court ordered sanctions.

You may have the right to appeal this Notice of Zoning Violation within thirty (30) days of the date of this letter in accordance with Sec. 15.2-2311 of the Code of Virginia. This decision shall be final and unappealable if it is not appealed within such thirty (30) days. Should you choose to appeal, the appeal must be filed with the Zoning Administrator and the Board of Zoning Appeals (BZA) in accordance with Part 3 of Article 18 of the Fairfax County Zoning Ordinance. Those provisions require the submission of an application form, a written statement setting forth the decision being appealed, the date of decision, the grounds for the appeal, how the appellant is an aggrieved party and any other information that you may wish to submit and a \$600.00 filing fee. Once an appeal application is accepted, it will be scheduled for public hearing and decision before the BZA. For information regarding an appeal contact the Zoning Administration Division at 12055 Government Center Parkway, Suite 807, Fairfax, Virginia 22035, Phone # 703-324-1314 or obtain information and forms at <http://www.fairfaxcounty.gov/dpz/bza/appeals/>.

Should you have any questions or need additional information, please do not hesitate to contact me at (703)324-1335 or (703)324-1300.

Sincerely,



W. B. Moncure
Code Compliance Investigator

☐ PERSONAL SERVICE

☒ Being unable to make personal service a copy was delivered in the following manner:

☐ Delivered to a person found in charge of usual place of business or employment during business hours and giving information of its purport.

☐ Delivered to family member (not temporary sojourner or guest) age 16 or older at usual place of abode or party named above after giving information of its purport. List name, age of recipient, and relation of recipient to party named above.

☒ Posted on front door or such other door as appears to be the main entrance of usual place of abode, address listed above. (Other authorized recipient not found.)

☐ Served on a Statute of the Commonwealth.

☐ Not found

PFC P.H. Gmerna
SERVING OFFICER

DATE

for **Stan G. Barry, Sheriff**
Fairfax County, VA

☐ PERSONAL SERVICE

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☐ Not found

PFC P.H. Gmerna
SERVING OFFICER

DATE

for **Stan G. Barry, Sheriff**
Fairfax County, VA

2-512 Limitations on the Keeping of Animals

1. The keeping of commonly accepted pets shall be allowed as an accessory use on any lot, provided such pets are for personal use and enjoyment, and not for any commercial purpose. Dogs shall be subject to the provisions of Par. 2 below.
2. The keeping of dogs, except a kennel as permitted by the provisions of Part 6 of Article 8, shall be allowed as an accessory use on any lot in accordance with the following:

- A. The number of dogs permitted shall be in accordance with the following schedule, except that, in determining the number of dogs allowed, only those dogs six (6) months or older in age shall be counted.

<i>Number of Dogs</i>	<i>Minimum Lot Size</i>
1 to 2	No requirement
3 to 4	12,500 square feet
5 to 6	20,000 square feet
7 or more	25,000 square feet plus 5,000 square feet for each additional dog above 7

- B. Notwithstanding the above, dogs in numbers greater than those set forth above may be kept on a lot when it can be demonstrated that:

- (1) Such dogs were kept on the lot prior to October 11, 1977 and have continued to be kept on such lot; or
- (2) Three (3) dogs were kept on a lot of less than 12,500 square feet in size, or five (5) dogs were kept on a lot of 12,500 to 19,999 square feet in size, prior to February 25, 1985.

The provisions of this Paragraph B shall apply only to existing dogs when evidence is submitted which specifically identifies each animal and documents that such animal was present on the lot in accordance with the applicable time frames set forth above.

Nothing in this Ordinance shall be construed to determine the type of license required for dogs under the provisions of Chapter 41 of The Code.

3. The keeping of livestock or domestic fowl shall be allowed as an accessory use on any lot of two (2) acres or more in size. The

keeping of such livestock or domestic fowl shall be in accordance with the following:

- A. The number of livestock kept on a given lot shall not exceed the ratio of one (1) animal unit per one (1) acre, with an animal unit identified as follows:

2 head of cattle	= 1 animal unit
5 sheep	= 1 animal unit
3 horses	= 1 animal unit
5 swine	= 1 animal unit
5 goats	= 1 animal unit
5 llamas	= 1 animal unit
5 alpacas	= 1 animal unit

Horses shall include ponies, mules, burros and donkeys. In determining the number of livestock permitted, only horses six (6) months or older in age and cattle, sheep, goats, and swine one (1) year or older in age shall be counted. In addition, in determining the number of livestock permitted, combinations of animals are allowed, provided that the ratio of one (1) animal unit per one (1) acre is maintained.

- B. The number of domestic fowl kept on a given lot shall not exceed the ratio of one (1) bird unit per one (1) acre, with a bird unit identified as follows:

32 chickens	= 1 bird unit
16 ducks	= 1 bird unit
8 turkeys	= 1 bird unit
8 geese	= 1 bird unit

In determining the number of domestic fowl permitted, only fowl six (6) months or older in age shall be counted.

4. The keeping of honeybees in four (4) beehives or less shall be allowed as an accessory use on any lot. On any lot of 10,000 square feet in size or larger, more than four (4) beehives may be kept, provided there is an additional lot area of 2500 square feet for each hive. In all instances, there shall be one (1) adequate and accessible water source provided on site and located within fifty (50) feet of the beehive(s). In addition, if the landing platform of a hive faces and is within ten (10) feet of any lot line, there shall be a flight path barrier, consisting of a fence, structure or plantings not less than six (6) feet in height, located in front of the hive.

5. The keeping of racing, homing, or exhibition (fancy) pigeons shall be allowed as an accessory use on any lot 10,000 square feet or more in size.
6. All accessory structures associated with the keeping or housing of animals shall be located in accordance with the provisions of Part 1 of Article 10.
7. The BZA may approve a special permit to modify the provisions of Paragraphs 1 through 6 above, but only in accordance with Part 9 of Article 8; provided, however, that a kennel, animal shelter or riding or boarding stable shall be subject to the provisions of Part 6 of Article 8.
8. The keeping of wild, exotic, or vicious animals shall not be allowed except as may be permitted by Chapter 41 of The Code.

8-006 General Standards

In addition to the specific standards set forth hereinafter with regard to particular special permit uses, all special permit uses shall satisfy the following general standards:

1. The proposed use at the specified location shall be in harmony with the adopted comprehensive plan.
2. The proposed use shall be in harmony with the general purpose and intent of the applicable zoning district regulations.
3. The proposed use shall be such that it will be harmonious with and will not adversely affect the use or development of neighboring properties in accordance with the applicable zoning district regulations and the adopted comprehensive plan. The location, size and height of buildings, structures, walls and fences, and the nature and extent of screening, buffering and landscaping shall be such that the use will not hinder or discourage the appropriate development and use of adjacent or nearby land and/or buildings or impair the value thereof.
4. The proposed use shall be such that pedestrian and vehicular traffic associated with such use will not be hazardous or conflict with the existing and anticipated traffic in the neighborhood.
5. In addition to the standards which may be set forth in this Article for a particular group or use, the BZA shall require landscaping and screening in accordance with the provisions of Article 13.
6. Open space shall be provided in an amount equivalent to that specified for the zoning district in which the proposed use is located.
7. Adequate utility, drainage, parking, loading and other necessary facilities to serve the proposed use shall be provided. Parking and loading requirements shall be in accordance with the provisions of Article 11.
8. Signs shall be regulated by the provisions of Article 12; however, the BZA, under the authority presented in Sect. 007 below, may impose more strict requirements for a given use than those set forth in this Ordinance.

8-903 Standards For All Group 9 Uses

In addition to the general standards set forth in Sect. 006 above, all Group 9 special permit uses shall satisfy the following standards:

1. All uses shall comply with the lot size and bulk regulations of the zoning district in which located, except as may be qualified below.
2. All uses shall comply with the performance standards specified for the zoning district in which located.
3. Before establishment, all uses, including modifications or alterations to existing uses, shall be subject to the provisions of Article 17, Site Plans, or other appropriate submission as determined by the Director.

8-917 Provisions for Modifications to the Limitations on the Keeping of Animals

The BZA may approve a special permit to allow the keeping of animals that are not commonly accepted pets, to allow the keeping of animals in numbers greater and/or on lots smaller than permitted by Sect. 2-512, or to allow modifications to the location regulations of Par. 9 of Sect. 10-104, but only in accordance with the following:

1. In reviewing an application, the BZA shall consider the kinds and numbers of animals proposed to be kept, the characteristics thereof, the proposed management techniques, and the location that such animals will be kept on the lot. The BZA may impose such conditions, to include screening and minimum yards, as may be necessary to ensure that there will be no adverse impact on adjacent property and no emission of noise and/or odor detrimental to other property in the area.
2. Such modification may be approved if it is established that the resultant use will be harmonious and compatible with the adjacent area.
3. Notwithstanding the requirements set forth in Par. 2 of Sect. 011 above, all applications shall be accompanied by ten (10) copies of a plat, which may be prepared by the applicant and shall contain the following information:
 - A. The dimensions of the lot or parcel, the boundary lines thereof, and the area of land contained therein.
 - B. The dimensions, height and distance to all lot lines of any existing or proposed building, structure or addition where such animals are to be kept.
 - C. The delineation of any Resource Protection Area and Resource Management Area.
 - D. The signature and certification number, if applicable, of the person preparing the plat.